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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,308	07/10/2003	Denis E. Hassick	7502 CO2	3587
49459	7590	06/12/2007		
NALCO COMPANY 1601 W. DIEHL ROAD NAPERVILLE, IL 60563-1198			EXAMINER METZMAIER, DANIEL S	
			ART UNIT 1712	PAPER NUMBER
			MAIL DATE 06/12/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/617,308	Applicant(s) HASSICK ET AL.	
	Examiner Daniel S. Metzmaier	Art Unit 1712	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>7/10/2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim 51 is pending.

Allowable Subject Matter

1. The indicated allowability of claim 51 is withdrawn in view of the consideration of the record anew and the references of record. Rejections based on the new issues follow.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 51 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The concentration of the phosphorous acid set forth in claim is not *ipso verba* set forth in the original disclosure, appear to be calculated values, and/or are unsupported. Applicants' stated basis for the limitations does not include: (1) the concentrations as claimed for phosphorous acid is not the same as those for phosphoric. Specific attention is directed to page 8, lines 16-18, wherein a commercial phosphoric acid solution is disclosed at 85 wt % in water as compared to 50 wt % of monoaluminum phosphate (MAP).

The examiner is unable to find basis for the claimed compositions employing a "phosphorous acid solution being about 85 wt % phosphorous acid". The use of phosphorous acid is disclosed at page 10, line 12, without any recitation of concentration. Furthermore, Table 2 at page 19 discloses composition/sample "3982-80A" employing "Std H_3PO_3 ". Composition/sample "3982-80A" nor "Std H_3PO_3 " are otherwise characterized in the instant specification.

To the extent the concentration would be inherent to the "Std H_3PO_3 ", documentary evidence, e.g., lab notebooks, in declaration form should be provided to establish inherency of any materials employed in the examples.

Response to Arguments

4. Applicant's arguments with respect to claim 51 have been considered but are moot in view of the new ground(s) of rejection. Upon further review, the above issue remains.

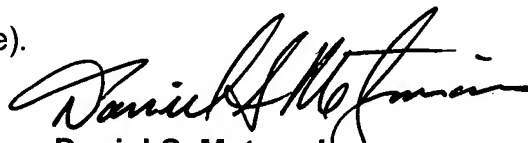
Furthermore and to the extent the concentration range is deleted from the claim, Waldmann, US 4,566,986, is deemed particularly pertinent. See column 6, lines 26 et seq, wherein flocculating adducts are prepared by way of semi-solid state reaction is concentrated solution form by combination of inorganic salts including among other ferric chloride and aluminum chloride hydrate or mixtures thereof in acid, optionally with a catalyst and/or stabilizer including phosphorous acid are disclosed at column 6, lines 61-62, and column 10, lines 31 et seq, particularly lines 35 and 36. Waldmann teaches phosphorous acid as a stabilizer for the reaction materials having the same utility.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel S. Metzmaier whose telephone number is (571) 272-1089. The examiner can normally be reached on Monday to Friday from 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski, can be reached on (571) 272-1302. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Daniel S. Metzmaier
Primary Examiner
Art Unit 1712

DSM